

Union Calendar No. 55

111TH CONGRESS
1ST SESSION

H. R. 1089

[Report No. 111-111]

To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2009

Ms. HERSETH SANDLIN introduced the following bill; which was referred to the Committee on Veterans' Affairs

MAY 14, 2009

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 13, 2009]

A BILL

To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Veterans Employment*
 5 *Rights Realignment Act of 2009”.*

6 **SEC. 2. ENFORCEMENT THROUGH OFFICE OF SPECIAL**
 7 **COUNSEL OF VETERANS’ EMPLOYMENT OR**
 8 **REEMPLOYMENT RIGHTS WITH RESPECT TO**
 9 **EMPLOYERS THAT ARE FEDERAL EXECUTIVE**
 10 **AGENCIES.**

11 *(a) ENFORCEMENT OF RIGHTS THROUGH OFFICE OF*
 12 *SPECIAL COUNSEL.—Section 4322 of title 38, United States*
 13 *Code, is amended—*

14 *(1) by striking subsection (a) and inserting the*
 15 *following new subsection (a):*

16 *“(a)(1)(A) A person described in subparagraph (B)*
 17 *may file a complaint with the Secretary, and the Secretary*
 18 *shall investigate such complaint.*

19 *“(B) A person described in this subparagraph is a per-*
 20 *son who claims that—*

21 *“(i) such person is entitled under this chapter to*
 22 *employment or reemployment rights or benefits with*
 23 *respect to employment by an employer other than an*
 24 *employer that is a Federal executive agency; and*

1 “(ii) such employer has failed or refused, or is
2 about to fail or refuse, to comply with the provisions
3 of this chapter.

4 “(2)(A) A person described in subparagraph (B) may
5 file a complaint with the Special Counsel established by sec-
6 tion 1211 of title 5.

7 “(B) A person described in this subparagraph is a per-
8 son who claims that—

9 “(i) such person is entitled under this chapter to
10 employment or reemployment rights or benefits with
11 respect to employment by an employer that is a Fed-
12 eral executive agency; and

13 “(ii)(I) such employer has failed or refused, or is
14 about to fail or refuse, to comply with the provisions
15 of this chapter; or

16 “(II) such employer or the Office of Personnel
17 Management has failed or refused, or is about to fail
18 or refuse, to comply with the provisions of this chap-
19 ter.”;

20 (2) by striking subsections (d) and (e) and in-
21 serting the following new subsections (d) and (e):

22 “(d)(1) The Secretary shall investigate each complaint
23 submitted pursuant to subsection (a)(1). If the Secretary
24 determines as a result of the investigation that the action
25 alleged in such complaint occurred, the Secretary shall at-

1 *tempt to resolve the complaint by making reasonable efforts*
2 *to ensure that the person or entity named in the complaint*
3 *complies with the provisions of this chapter.*

4 “(2) *If the efforts of the Secretary with respect to any*
5 *complaint filed under subsection (a)(1) do not resolve the*
6 *complaint, the Secretary shall notify the person who sub-*
7 *mitted the complaint of—*

8 “(A) *the results of the Secretary’s investigation;*
9 *and*

10 “(B) *the complainant’s entitlement to proceed*
11 *under the enforcement of rights provisions provided*
12 *under section 4323.*

13 “(e)(1) *In the case of a complaint filed under sub-*
14 *section (a)(2), the Special Counsel shall investigate the com-*
15 *plaint. If the Special Counsel determines as a result of the*
16 *investigation that the action alleged in such complaint oc-*
17 *curred, the Special Counsel shall attempt to resolve the com-*
18 *plaint by making reasonable efforts to ensure that the per-*
19 *son or entity named in the complaint complies with the*
20 *provisions of this chapter.*

21 “(2) *If the efforts of the Special Counsel with respect*
22 *to any complaint filed under subsection (a)(2) do not re-*
23 *solve the complaint, the Special Counsel shall notify the per-*
24 *son who submitted the complaint of—*

1 “(A) *the results of the investigation by the Spe-*
2 *cial Counsel; and*

3 “(B) *the complainant’s entitlement to proceed*
4 *under the enforcement of rights provisions provided*
5 *under section 4324.”.*

6 (b) *TECHNICAL AND CONFORMING AMENDMENTS.—*
7 *Such title is further amended—*

8 (1) *in section 4322(b), by striking “Such com-*
9 *plaint” and inserting “Each complaint filed under*
10 *subsection (a)”;*

11 (2) *in section 4323(a)—*

12 (A) *in paragraph (1), by striking “section*
13 *4322(e)” and inserting “section 4322(d)(2)”;* and

14 (B) *in paragraph (3)(A), by striking “sec-*
15 *tion 4322(a)” and inserting “section*
16 *4322(a)(1)”;*

17 (3) *in section 4324—*

18 (A) *in subsection (a)(1)—*

19 (i) *in the first sentence, by striking*
20 *“Secretary” each place it appears and in-*
21 *serting “Special Counsel”;*

22 (ii) *by striking “section 4322(e)” and*
23 *inserting “section 4322(e)(2)”;* and

24 (iii) *by striking the second sentence;*
25 *and*

1 *(B) in subsection (b)—*

2 *(i) in paragraph (1)—*

3 *(I) by striking “Secretary” and*
 4 *inserting “Special Counsel”; and*

5 *(II) by striking “section 4322(a)”*
 6 *and inserting “section 4322(a)(2) of*
 7 *this title”; and*

8 *(ii) in paragraph (2)—*

9 *(I) by striking “Secretary” and*
 10 *inserting “Special Counsel”; and*

11 *(II) by striking “section 4322(e)”*
 12 *and inserting “section 4322(e)(2) of*
 13 *this title”;*

14 *(4) in section 4325(c), by striking “section*
 15 *4322(d)” and inserting “section 4322(d)(1)”; and*

16 *(5) in section 4326—*

17 *(A) in subsection (a), by inserting “or the*
 18 *Special Counsel’s” after “Secretary’s”; and*

19 *(B) by striking “Secretary” each place it*
 20 *appears and inserting “Secretary or the Special*
 21 *Counsel”.*

22 *(c) CONFORMING REPEAL.—The Veterans Benefits Im-*
 23 *provement Act of 2004 (Public Law 108–454) is amended*
 24 *by striking section 204.*

1 *(d) EFFECTIVE DATE.—The amendments made by this*
2 *section shall apply with respect to complaints filed on or*
3 *after the date of the enactment of this Act.*

Amend the title so as to read: “A bill to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.”.

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